

# EXHIBIT 7

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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

BEARBOX LLC and AUSTIN STORMS,	)	
Plaintiffs,	)	
v.	)	
	)	C.A. No.
LANCIDM LLC, MICHAEL T.	)	21-534-MN-CJB
MCNAMARA, and RAYMOND E. CLINE,	)	
JR.	)	
Defendants.	)	

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Wilmington, Delaware  
Thursday, October 20, 2022  
Markman Transcript  
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BEFORE: HONORABLE GREGORY B. WILLIAMS  
UNITED STATES DISTRICT COURT JUDGE

- - - -

Michele L. Rolfe, RPR, CRR

**APPEARANCES:**

**ASHBY & GEDDES**  
**BY: ANDREW C. MAYO, ESQ.**

**-and-**

**MARSHALL, GERSTEIN & BORUN LLP**  
**BY: BENJAMIN T. HORTON, ESQ.**

**For the Plaintiffs**

**BARNES & THORNBURG LLP**  
**BY: CHAD S.C. STOVER, ESQ.**  
**MARK C. NELSON, ESQ.**  
**ADAM M. KAUFMANN, ESQ.**

**For the Defendants**

1 buy power at a certain price is much closer to a power  
2 purchase agreement; it reads the option out of power option  
3 agreement completely.

4 Thank you, Your Honor.

5 THE COURT: Question for you, Mr. Nelson.

6 MR. NELSON: Yes.

7 THE COURT: You saw BearBox's proposed, I guess,  
8 compromise in terms of striking -- deleting some of the  
9 language at the end of Lancium's proposed construction.

10 What's Lancium's response to that?

11 MR. NELSON: Your Honor, I did see it briefly.  
12 I haven't had a full chance to digest it because we did not  
13 exchange slides in advance, so this was new.

14 THE COURT: Okay.

15 MR. NELSON: And I did not know about that  
16 compromise in advance.

17 THE COURT: Okay.

18 MR. NELSON: We certainly would consider it.  
19 And we're glad that at least they seem to agree with the  
20 first half of our definition. But I think from Lancium's  
21 perspective what's important here -- the terms "power option  
22 agreement" and "minimum power threshold," they somewhat  
23 interrelate. And the idea here is this system that is the  
24 '433 patent discusses helping to balance the grid. And you  
25 balance the grid by committing to use that amount of power

1 and -- because otherwise there's nothing to curtail.

2 And so whether it be -- you know, that's going  
3 to be the dispute with minimum power threshold. So I guess  
4 to answer your question directly, Your Honor, can I have a  
5 little while to think about it?

6 THE COURT: Okay. Understood. Understood.

7 Mr. Horton, question for you -- a couple of  
8 questions, follow-up questions on the power option agreement  
9 term.

10 What is BearBox's plain and ordinary meaning of  
11 power option agreement?

12 MR. HORTON: Your Honor, I would submit that  
13 it's the compromise that we put up, we'd be satisfied with  
14 that.

15 THE COURT: I understand that --

16 MR. HORTON: Plain and ordinary meaning.

17 THE COURT: -- that's your construction today,  
18 proposed construction today. You -- that doesn't appear to  
19 be the construction that your expert was giving.

20 MR. HORTON: Yeah, I disagree with that, Your  
21 Honor. Our interpretation of the claim terms has -- was  
22 made clear in this case going back to, I believe, mid-2021  
23 when we're responding to the initial set of interrogatories  
24 from the defendants asking us to map our evidence of  
25 consumption to each and every limitation of each and every

1                   So moving on to minimum power threshold, Your  
2 Honor. Again, BearBox's construction has always been plain  
3 and ordinary meaning. That was Lancium's construction of  
4 the term as well up until the summary judgment brief was  
5 filed. That was Lancium's interpretation -- was consistent  
6 with BearBox's or at least they didn't dispute it all the  
7 way through fact discovery, all the way through expert  
8 reports, and only in summary judgment did they raise an  
9 issue. Trying to --

10                   THE COURT: Didn't both sides reserve the right  
11 to request claim construction in the future if necessary?

12                   MR. HORTON: They did, Your Honor. They did.

13                   So if we're trying to resolve a perceived issue  
14 about what the plain and ordinary meaning is, this is an  
15 attempt at a compromise to try to harmonize, again, the  
16 claim.

17                   A minimum power threshold, BearBox's proposes  
18 would be a minimum amount of power delivered to a load  
19 unless the power entity exercises the option. And, again,  
20 the option would be discussed in the previous plain and  
21 ordinary meaning of power option agreement.

22                   What we want to be clear about here, though, is  
23 that a minimum power threshold may be zero. We didn't think  
24 this was controversial until the summary judgment briefing,  
25 because the patent is so clear about that.

1 parties have had the opportunity to present their positions  
2 to the Court with the appropriate support.

3 MR. HORTON: Thank you, Your Honor.

4 MR. NELSON: May I say one thing, Your Honor,  
5 I'll be really quick, I promise.

6 So the claims were different, you know, when we  
7 talked about bifurcation before. And also the statement  
8 counsel made about the issues being interrelated, I'm not  
9 sure they are, because the statements that were made to  
10 overcome our preemption argument --

11 THE COURT: Again, I don't want to --

12 MR. NELSON: I'll stop there.

13 THE COURT: All right.

14 Thank you all.

15 ALL COUNSEL: Thank you, Your Honor.

16 (Whereupon, the following proceeding concluded  
17 at 11:08 p.m.)

18 I hereby certify the foregoing is a true  
19 and accurate transcript from my stenographic notes in the  
20 proceeding.

21 /s/ Michele L. Rolfe, RPR, CRR  
22 U.S. District Court  
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